

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YANG FENG ZHAO,

Plaintiff,

-against-

CITY OF NEW YORK, DETECTIVE NGA
CHEUNG NG, DETECTIVE BILLY MILAN,
“JOHN DOE #1” and “JOHN DOE #2,”

**ANSWER OF DEFENDANTS
NGA CHEUNG NG AND
WILLIAM MILAN**

07 CV 3636 (LAK)

JURY TRIAL DEMANDED

Defendants.

-----X

Defendants Ng and Milan, for their answer to the complaint, respectfully
allege, upon information and belief, as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “1” of the complaint.
2. Deny the allegations set forth in paragraph “2” of the complaint.
3. Deny the allegations set forth in paragraph “3” of the complaint.
4. Deny the allegations set forth in paragraph “4” of the complaint.
5. Deny the allegations set forth in paragraph “5” of the complaint.
6. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the complaint.
7. Deny the allegations set forth in paragraph “7” of the complaint, except admit that plaintiff purports to bring this action as stated therein.
8. Deny the allegations set forth in paragraph “8” of the complaint, except admit that plaintiff purports to invoke this Court’s jurisdiction as stated therein.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the complaint.

10. Deny the allegations set forth in paragraph "10" of the complaint, except admit that the City of New York is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

11. Deny the allegations set forth in paragraph "11" of the complaint, except admit William Milan is currently employed by the New York City Police Department and Nga Ng retired on or about July 18, 2007.

12. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph "12" of the complaint.

13. Deny knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph "13" of the complaint.

14. Deny the allegations set forth in paragraph "14" of the complaint, except admit that a document purporting to be a Notice of Claim was received by the City of New York Comptroller's Office on or about November 27, 2006.

15. Deny the allegations set forth in paragraph "15" of the complaint.

16. Deny the allegations set forth in paragraph "16" of the complaint, except admit that a 50-H hearing was conducted on or about January 19, 2007.

17. Deny the allegations set forth in paragraph "17", except admit that the case has not been settled.

18. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "18" of the complaint.

19. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19” of the complaint.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of the complaint.

21. Deny the allegations set forth in paragraph “21” of the complaint.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of the complaint.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “23” of the complaint.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “24” of the complaint.

25. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “25” of the complaint.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “26” of the complaint.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “27” of the complaint.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of the complaint.

29. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of the complaint.

30. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of the complaint.

31. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of the complaint.

32. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” of the complaint.

33. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the complaint.

34. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “34” of the complaint.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “35” of the complaint.

36. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “36” of the complaint.

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37” of the complaint.

38. Deny the allegations set forth in paragraph “38” of the complaint, except admit that plaintiff was arrested on or about October 24, 2005.

39. Deny the allegations set forth in paragraph “39” of the complaint.

40. Deny the allegations set forth in paragraph “40” of the complaint.

41. Deny the allegations set forth in paragraph “41” of the complaint.

42. Deny the allegations set forth in paragraph “42” of the complaint.

43. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “43” of the complaint.

44. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “44” of the complaint.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “45” of the complaint.

46. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the complaint.

47. Deny the allegations set forth in paragraph “47” of the complaint.

48. Deny the allegations set forth in paragraph “48” of the complaint.

49. Deny the allegations set forth in paragraph “49” of the complaint.

50. Deny the allegations set forth in paragraph “50” of the complaint.

51. Deny the allegations set forth in paragraph “51” of the complaint.

52. Deny the allegations set forth in paragraph “52” of the complaint.

53. Deny the allegations set forth in paragraph “53” of the complaint.

54. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “54” of the complaint.

55. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “55” of the complaint.

56. Deny the allegations set forth in paragraph “56” of the complaint.

57. Deny the allegations set forth in paragraph “57” of the complaint.

58. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “58” of the complaint, and respectfully refers the Court to the criminal court complaint underlying this action for a complete and accurate statement of its contents.

59. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "59" of the complaint.

60. Deny the allegations set forth in paragraph "60" of the complaint.

61. Deny the allegations set forth in paragraph "61" of the complaint, except admit that plaintiff was indicted by a grand jury.

62. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "62" of the complaint.

63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "63" of the complaint, except admit that the indictment was dismissed.

64. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "64" of the complaint.

65. Deny the allegations set forth in paragraph "65" of the complaint.

66. Deny the allegations set forth in paragraph "66" of the complaint.

67. Deny the allegations set forth in paragraph "67" of the complaint.

68. Deny the allegations set forth in paragraph "68" of the complaint.

69. Deny the allegations set forth in paragraph "69" of the complaint.

70. Deny the allegations set forth in paragraph "70" of the complaint.

71. Deny the allegations set forth in paragraph "71" of the complaint.

72. Deny the allegations set forth in paragraph "72" of the complaint.

73. Deny the allegations set forth in paragraph "73" of the complaint.

74. Deny the allegations set forth in paragraph "74" of the complaint.

75. Deny the allegations set forth in paragraph "75" of the complaint.

76. Deny the allegations set forth in paragraph "76" of the complaint.
77. Deny the allegations set forth in paragraph "77" of the complaint.
78. In response to the allegations set forth in paragraph "78" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "77" of this answer as if fully set forth herein.
 79. Deny the allegations set forth in paragraph "79" of the complaint.
 80. Deny the allegations set forth in paragraph "80" of the complaint.
 81. Deny the allegations set forth in paragraph "81" of the complaint.
 82. Deny the allegations set forth in paragraph "82" of the complaint.
 83. Deny the allegations set forth in paragraph "83" of the complaint.
 84. Deny the allegations set forth in paragraph "84" of the complaint.
 85. Deny the allegations set forth in paragraph "85" of the complaint.
 86. In response to the allegations set forth in paragraph "86" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "85" of this answer as if fully set forth herein.
 87. Deny the allegations set forth in paragraph "87" of the complaint.
 88. Deny the allegations set forth in paragraph "88" of the complaint, except admit that the indictment was dismissed.
 89. Deny the allegations set forth in paragraph "89" of the complaint.
 90. Deny the allegations set forth in paragraph "90" of the complaint.
 91. Deny the allegations set forth in paragraph "91" of the complaint.
 92. Deny the allegations set forth in paragraph "92" of the complaint.
 93. Deny the allegations set forth in paragraph "93" of the complaint.

94. Deny the allegations set forth in paragraph "94" of the complaint.
95. Deny the allegations set forth in paragraph "95" of the complaint.
96. Deny the allegations set forth in paragraph "96" of the complaint.
97. Deny the allegations set forth in paragraph "97" of the complaint.
98. In response to the allegations set forth in paragraph "98" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "97" of this answer as if fully set forth herein.
99. Deny the allegations set forth in paragraph "99" of the complaint.
100. Deny the allegations set forth in paragraph "100" of the complaint.
101. Deny the allegations set forth in paragraph "101" of the complaint.
102. Deny the allegations set forth in paragraph "102" of the complaint.
103. Deny the allegations set forth in paragraph "103" of the complaint.
104. Deny the allegations set forth in paragraph "104" of the complaint.
105. In response to the allegations set forth in paragraph "105" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "104" of this answer as if fully set forth herein.
106. Deny the allegations set forth in paragraph "106" of the complaint.
107. Deny the allegations set forth in paragraph "107" of the complaint.
108. Deny the allegations set forth in paragraph "108" of the complaint.
109. Deny the allegations set forth in paragraph "109" of the complaint.
110. Deny the allegations set forth in paragraph "110" of the complaint.
111. Deny the allegations set forth in paragraph "111" of the complaint.
112. Deny the allegations set forth in paragraph "112" of the complaint.

113. In response to the allegations set forth in paragraph "113" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "112" of this answer as if fully set forth herein.

114. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "114" of the complaint, except admit that plaintiff was arrested on or about October 24, 2005.

115. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "115" of the complaint.

116. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "116" of the complaint.

117. Deny the allegations set forth in paragraph "117" of the complaint.

118. Deny the allegations set forth in paragraph "118" of the complaint.

119. Deny the allegations set forth in paragraph "119" of the complaint.

120. Deny the allegations set forth in paragraph "120" of the complaint.

121. In response to the allegations set forth in paragraph "121" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "120" of this answer as if fully set forth herein.

122. Deny the allegations set forth in paragraph "122" of the complaint.

123. Deny the allegations set forth in paragraph "123" of the complaint.

124. Deny the allegations set forth in paragraph "124" of the complaint.

125. Deny the allegations set forth in paragraph "125" of the complaint.

126. Deny the allegations set forth in paragraph "126" of the complaint.

127. Deny the allegations set forth in paragraph "127" of the complaint.

128. In response to the allegations set forth in paragraph "128" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "127" of this answer as if fully set forth herein.

129. Deny the allegations set forth in paragraph "129" of the complaint.

130. Deny the allegations set forth in paragraph "130" of the complaint.

131. Deny the allegations set forth in paragraph "131" of the complaint.

132. In response to the allegations set forth in paragraph "132" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "131" of this answer as if fully set forth herein.

133. Deny the allegations set forth in paragraph "133" of the complaint.

134. Deny the allegations set forth in paragraph "134" of the complaint.

135. Deny the allegations set forth in paragraph "135" of the complaint.

136. Deny the allegations set forth in paragraph "136" of the complaint.

137. Deny the allegations set forth in paragraph "137" of the complaint.

138. In response to the allegations set forth in paragraph "138" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "137" of this answer as if fully set forth herein.

139. Deny the allegations set forth in paragraph "137" of the complaint.

140. Deny the allegations set forth in paragraph "137" of the complaint.

141. Deny the allegations set forth in paragraph "137" of the complaint.

142. In response to the allegations set forth in paragraph "142" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "141" of this answer as if fully set forth herein.

143. Deny the allegations set forth in paragraph "143" of the complaint.

144. Deny the allegations set forth in paragraph "144" of the complaint.

145. Deny the allegations set forth in paragraph "145" of the complaint.

146. Deny the allegations set forth in paragraph "146" of the complaint.

147. Deny the allegations set forth in paragraph "147" of the complaint.

148. Deny the allegations set forth in paragraph "148" of the complaint.

149. In response to the allegations set forth in paragraph "149" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "148" of this answer as if fully set forth herein.

150. Deny the allegations set forth in paragraph "150" of the complaint.

151. Deny the allegations set forth in paragraph "151" of the complaint.

152. Deny the allegations set forth in paragraph "152" of the complaint.

153. Deny the allegations set forth in paragraph "153" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

154. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

155. There was probable cause for plaintiff's arrest, detention, and prosecution.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

156. Defendants have not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have they violated any act of Congress providing for the protection of civil rights.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

157. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of non-parties and was not the proximate result of any act of defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

158. At all times relevant to the acts alleged in the complaint, defendants City of New York, its agents and officials, acted reasonably and properly in the lawful exercise of their discretion. Therefore, it is entitled to governmental immunity from liability.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

159. The individual defendants have not violated any clearly established constitutional or statutory right of which a reasonable person would have known and therefore are protected by qualified immunity.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

160. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

Dated: New York, New York
July 31, 2007

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City of New York
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By: /s/
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Senior Counsel
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